

March 2, 2009

Phyllis M. Peterson, Administratrix
Estate of Rosamond M. Robertshaw
And Douglas Reid and Kim D. Reid
c/o Jeremiah R. Leary
Leary & Holland
1340 Main Road
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief; Map 1-11, Block/Plat 92, Card/Lot 31 & 33B

Dear Ms. Peterson, Mr. & Ms. Reid:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on February 4, 2009 for a request for a variance from Article V, Sections 1 & 2 of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to redefine property lines between two parcels of land by subdivision, leaving 0 Highland Road with less than required frontage and leaving 96 Highland Road with an existing home with less than required front yard and an existing garage with less than required rear yard setbacks (the "Proposal") on property located at 0 and 96 Highland Road, Tiverton, Rhode Island, at Map 1-11, Block/Plat 92, Card/Lot 31 & 33B (the "Premises") and located in a R40 zoning district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and all of the testimony and evidence entered into the record at the public hearing, makes the following findings:

1. That the Premises contains approximately 35 acres of land area, more or less, and is zoned R40.
2. That the Premises is a large awkwardly shaped lot that cannot be subdivided into fully conforming lots even though sufficient lot area exists.
3. The petitioners testified that they wished to adjust the lot lines between two lots comprising the Premises to better use the land areas. The Proposal requires a dimensional variance from Article V, Sections 1 & 2 of the Zoning Ordinance leaving 0 Highland Road with less than required frontage and leaving 96 Highland Road with an existing home with less than required front yard and an existing garage with less than required rear yard setbacks.
4. The petitioners also testified that the proposal would be in keeping with the development in the surrounding area, would not negatively impact any nearby property owners and was the least relief necessary.
5. No objections were raised to the proposal.
6. The petitioners obtained a conditional plan approval from the Planning Board to proceed with the proposed subdivision as designed subject to the petitioners obtaining approval of all the relief necessary from the Board.
7. The Board concurred with the factual statements and opinions of the petitioners, whose information, analysis and conclusions were found credible and are made a part of the record. No objections were presented by any abutters.

Based on the foregoing and after deliberations on the application, the Board voted unanimously to grant the application for the variance, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioners.
- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioners.
- c. The unnecessary hardship, which the petitioners seek to avoid, has not been imposed by any prior action of the petitioners and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

This petition is granted by the Board with the following stipulations and conditions:

1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
2. That the relief is limited to the plans and representations made by the petitioners to the Board. Changes to the approved plan may be made without approval of the Zoning Board of Review if needed to comply with either the building or fire codes.
3. This approval shall expire one year from the date of granting of such by the board unless the applicant exercises the permission granted or receives a building permit to do so and commences construction and diligently prosecutes the construction until completed. The board may, upon application thereof, for cause shown and without a public hearing, grant an extension, provided that not more than one such extension for a period of six months be granted.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

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